

2025 LiveLaw (SC) 762

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

DIPANKAR DATTA; J., AUGUSTINE GEORGE MASIH; J.

July 29, 2025

CRIMINAL APPEAL No. OF 2025 [arising out of SLP (Crl.) No. 4862 OF 2025]

ANIL KUMAR versus THE STATE OF JHARKHAND & ANR.

Code of Criminal Procedure, 1973 - Section 438 - Anticipatory Bail - High Court allowed pre-arrest bail to Respondent 2 in FIR registered under Sections 498A, 323, 313, 506, 307 and 34 of IPC r/w Sections 3 & 4 of Dowry Prohibition Act, 1961 – Held, condition imposed by High Court while granting bail to accused (resumption of conjugal life and maintenance with dignity and honour) is “beset with risk” and ought not to have been imposed - Pre-arrest bail deserved to be granted within the settled parameters and only conditions traceable to Section 438(2) of CrPC could be imposed. [Relied on: *Mahesh Chandra v. State of U.P.* (2006) 6 SCC 196; *Munish Bhasin v. State NCT of Delhi* (2009) 4 SCC 45; Paras 4-8]

[Arising out of impugned final judgment and order dated 25-02-2025 in ABA No. 4200/2024 passed by the High Court of Jharkhand at Ranchi]

For Petitioner(s): Mr. Ranjeet Kumar, Adv. Mr. Simanta Kumar, Adv. Mr. Mithlesh Kumar, Adv. Dr. Pratap Singh Nerwal, AOR

For Respondent(s): Ms. Pallavi Langar, AOR Mr. Sujeet Kumar Chaubey, Adv. Mr. Sandeep Jha, Adv. Ms. Rita Jha, AOR

ORDER

1. Leave granted.
2. The High Court of Jharkhand at Ranchi by the impugned judgment and order dated 25th February, 2025, has granted the prayer of the appellant for pre-arrest bail on condition that he resumes conjugal life with his wife, i.e. respondent no.2 herein, and maintains her with dignity and honour as his lawful wife.
3. The appellant figures as an accused in Ranchi Mahila Police Station Case No. 11 of 2024 registered under Sections 498-A, 323, 313, 506, 307 and 34 of the Indian Penal Code, 1860 as well as under Sections 3 and 4 of the Dowry Prohibition Act, 1961.
4. We have heard learned counsel appearing for the appellant, the respondent no.1-State as well as the respondent no.2.
5. While considering the application for pre-arrest bail of the appellant, the Court ought to have assessed whether the discretionary relief sought by the appellant for pre-arrest bail deserved to be granted within the settled parameters; if yes, conditions which are traceable to Section 438(2), Code of Criminal Procedure, 1973¹ could be imposed, but a condition such as the one impugned before us ought not to have been imposed in view of several decisions of this Court. We may refer to the decisions in **Mahesh Chandra v. State of U.P.**² and **Munish Bhasin v. State (NCT of Delhi)**³ in this regard.

¹ Cr. PC

² (2006) 6 SCC 196

³ (2009) 4 SCC 45

6. Learned counsel for the respondent no.2 submits that the appellant together with the respondent no.2 had jointly submitted before the High Court that he is willing to resume his conjugal life; hence, he contends that the appellant cannot now turn around and take a different stand.
7. Learned counsel is partly right in the sense that the appellant had indeed agreed to resume conjugal life. However, the respondent no.2 insisted for imposition of a further condition to which we do not find the appellant to have agreed. The spouses seemingly, at one point of time, had drifted apart and resided separately for some time. Imposing a condition that the appellant would maintain the respondent no.2 with dignity and honour is beset with risk in that it can generate further litigation. An application for cancellation of bail on the ground that such condition has not been complied with, if filed later, is bound to meet opposition from the appellant and could place the High Court in further difficulty. The High Court could find itself disabled to decide a disputed question of fact, in an application for pre-arrest bail.
8. In such state of affairs, we are of the considered opinion that the High Court should have considered the prayer of the appellant for pre-arrest bail entirely on its own merit instead of imposing a condition which is not traceable to Section 438(2), Cr. PC.
9. The impugned judgment and order, accordingly, stands set aside. The appeal is allowed.
10. A.B.A. No. 4200 of 2024, on the file of the High Court, is restored to its original file and number.
11. We request the High Court to decide A.B.A. No. 4200 of 2024 afresh on its own merits, as early as possible.
12. Till such time A.B.A. No. 4200 of 2024 is decided finally in terms of this order, interim protection granted to the appellant by this Court on 3rd April, 2025 shall continue.
13. Pending application(s), if any, stand disposed of.